

Serial No.: 10/682,597

Confirmation No.: 9772

Filed: 9 October 2003

For: MULTILAYER PROCESSING DEVICES AND METHODS

Remarks

The Final Office Action of 13 February 2008 has been received and reviewed. Claims 40-48 have been canceled in this response and new claims 49-57 have been presented. Therefore, claims 1-30 and 49-57 remain pending after entry of the amendments presented herein. Reconsideration and withdrawal of the rejections are respectfully requested as discussed herein.

Response to Restriction Requirement

A Restriction Requirement was issued under 35 U.S.C. § 121 in the above-identified application grouping the claims as follows: Group I, Claims 1-30 drawn to an apparatus and method of making, and Group II, Claims 40-48 drawn to a method of manufacturing a device having a void.

Applicants elect, without traverse, Group I (claims 1-30), drawn to an apparatus and method making. Non-elected claims 40-48 have been canceled, although Applicants' representatives hereby reserve the right to pursue examination of the non-elected claims in continuation or divisional applications.

New Claims

New claims 49-57 have been presented to provide Applicants with more comprehensive protection. Support for new claims 49-57 can be found in the application as filed at, e.g., page 16, line 24 to page 18, line 25.

Entry and consideration of these new claims are respectfully requested.

The 35 U.S.C. § 102 Rejections

35 U.S.C. § 102(e) Rejection (Harms et al.)

Claims 1-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by Harms et al. (U.S. Patent No. 6,814,935). Applicants respectfully traverse this rejection.

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At the outset, Applicants do not admit that the Harms et al. qualifies as prior art under 35 U.S.C. § 102(e), and Applicants respectfully reserve the right to swear behind Harms et al. at a later date.

For a claim to be anticipated under 35 U.S.C. § 102, each and every element of the claim must be found in a single prior art reference (M.P.E.P. § 2131). Applicants respectfully submit that Harms et al. fails to teach each and every element of claims 1-30.

For example, nothing is identified within Harms et al. that discloses a transmissive layer, a control layer, and a cover sheet as recited in independent claims 1 and 13-14.

The Final Office Action identifies both layers 16 and 18 of Harms et al. as equivalents to the control layer recited in claims 1-30. *See Final Office Action*, 13 Feb. 2008, page 5. Nothing, however, has been identified within the disclosure of Harms et al. as being equivalent to the transmissive layer and the cover sheet recited in claims 1-30. Instead, the control layer is the only layer that is discussed in support of this rejection in the Final Office Action.

As a result, the Office fails to identify any structures of Harms et al. that are the equivalent of the transmissive layer and cover sheet as recited in claims 1-30. If this rejection is maintained, Applicants respectfully request clarification as to what structures in Harms et al. are being equated to the transmissive layer and the cover sheet.

For at least these reasons, Applicants submit that claims 1-30 are not anticipated by Harms et al. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

35 U.S.C. § 102(b) Rejection (Wilding et al.)

Claims 1-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wilding et al. (U.S. Patent No. 5,726,026). Applicants respectfully traverse this rejection.

For a claim to be anticipated under 35 U.S.C. § 102, each and every element of the claim must be found in a single prior art reference (M.P.E.P. § 2131).

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At the outset, it is not clear from the Final Office Action which structures of Wilding et al. are being equated to the claimed transmissive layer. Applicants had previously asked for clarification on this matter in the previous response. *See Amendment and Response*, 4 Dec. 2007, page 12. The Final Office Action now recites that "Figures 6a,b show at least two layers below the chambers which have been read on the claimed transmissive layer" and "The Office maintains the transmissive layers shown in figures(6a,b) are coextensive with the cover layer." *Final Office Action*, 13 Feb. 2008, pages 5-6.

In spite of these assertions, Applicants continue to submit that Wilding et al. fails to teach each and every element of claims 1-30 as would be required for a proper anticipation rejection of claims 1-30.

For example, nothing is identified within Wilding et al. that discloses a body comprising a transmissive layer and a control layer as recited in independent claims 1 and 13-14. The claimed control layer has been equated to the bottom substrate 11 of Wilding et al. and the claimed cover sheet has been equated to the transparent cover 29 of Wilding et al. *See Final Office Action*, 13 Feb. 2008, page 5. As discussed herein, no specific structure in Wilding et al. has been equated to the claimed transmissive layer. Instead, it is asserted that "Figures 6a,b show at least two layers below the chambers which have been read on the claimed transmissive layer." *Final Office Action*, 13 Feb. 2008, page 5.

Figure 6A, however, merely discloses separate devices 10, 112 that each contain two layers (bottom substrate 11 and transparent cover 29) held within an appliance 50. *See Wilding et al.*, col. 11, lines 26-29 ("Appliance 50 has a nesting site 52 for holding sample preparation device 10 and analytical device 112"). Further, Figure 6B merely discloses separate devices 10', 110' that each contain two layers (bottom substrate 11 and transparent cover 29) held within an appliance 70.

In contrast, the transmissive layer of claims 1-30 is attached to the control layer on a first major surface and the cover sheet is attached to the control layer on a second major surface (i.e., the device, top to bottom, is constructed as follows: transmissive layer—control layer—cover layer). Because bottom substrate 11 (i.e., the bottom layer of devices 10, 112, 10', 110') has

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been equated to the control layer and the transparent cover 29 has been equated to the cover sheet (i.e., the top layer of devices 10, 112, 10', 110'), the Examiner must be equating either the appliance 50 in Figure 6A, the device 10' of Figure 6B, or the appliance 70 of Figure 6B to the claimed transmissive layer. None of appliance 50, device 10', or appliance 70 are, however, a transmissive layer, nor are they part of a body with the control layer (i.e., a body comprising a transmissive layer and a control layer as recited in claims 1-30). Further, nothing is identified within the Wilding et al. that teaches that appliance 50, device 10', and appliance 70 are capable of transmitting selected light as recited in claims 1 and 13-14.

For at least these reasons, Applicants submit that each and every element of independent claims 1 and 13-14 are not shown within Wilding et al. as required for an anticipation rejection of claims 1 and 13-14.

With respect to claims 2-12 and 15-30, each of which depend, either directly or ultimately, from claims 1 and 14, Applicants submit that claims 2-12 and 15-30 are not anticipated by Wilding et al. for the same reasons as presented above for claims 1 and 13-14. In addition, claims 2-12 and 15-30 each recite additional elements that further support patentability.

For example, nothing is identified within Wilding et al. that discloses an interior window surface (of the void of each process chamber in the control layer) formed by the transmissive layer as recited in claims 2, 13, and 27. If this rejection is maintained, Applicants respectfully request clarification as to how any asserted transmissive layer of Wilding et al. forms an interior window surface to a process chamber as would be required for a proper anticipation rejection of claims 2, 13, and 27.

Further, for example, nothing is identified within Wilding et al. that discloses a control layer that is melt-bonded to the transmissive layer as recited in claims 4, 13, and 15. As discussed herein, it appears that the Office Action may be equating one or more of three separate structures in Figures 6A & 6B of Wilding et al. (i.e., appliance 50, device 10', or appliance 70) to the claimed transmissive layer. None of those structures are, however, melt-bonded to a sample processing device (including a control layer and a cover sheet) as would be required for an anticipation rejection of claims 4, 13, and 15.

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Still further, for example, nothing is identified within Wilding et al. that discloses a control layer that includes a light blocking filler incorporated therein as recited in claim 5. Substrate 11 has been equated to the claimed control layer. *See Office Action*, 13 Feb. 2008, page 5. Nothing within the disclosure of Wilding et al. teaches that the substrate 11 includes a light blocking filler as would be required for an anticipation rejection of claim 5. If this rejection is maintained, Applicants respectfully request clarification as to how or where Wilding et al. teaches that substrate 11 may include a light blocking filler.

Yet still further, for example, nothing is identified within Wilding et al. that discloses a cover sheet that blocks selected light as recited in claims 10 and 28 or that includes a reflective surface facing the control layer as recited in claims 11 and 29. Transparent cover 29 has been equated to the claimed cover sheet. *See Office Action*, 13 Feb. 2008, page 5. Nothing within the disclosure of Wilding et al. teaches that the transparent cover 29 blocks selected light as would be required for an anticipation rejection of claims 10 and 28 or includes a reflective surface facing the control layer as would be required for an anticipation rejection of claims 11 and 29.

For at least these reasons, Applicants submit that claims 1-30 are not anticipated by Wilding et al. Reconsideration and withdrawal of this rejection are, therefore respectfully requested.

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Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

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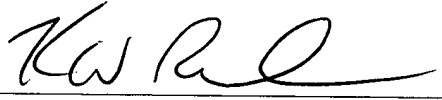
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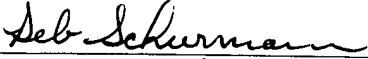
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